

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ROBERT HOPKINS, III,

Plaintiff,

v.

DEPARTMENT OF DEFENSE,

Defendant.

No. 3:22-CV-00706-E

**DECISION REQUESTED BY
JUNE 9, 2023**

JOINT RENEWED MOTION FOR EXPEDITED CONSIDERATION

The parties hereby respectfully request that the Court resolve their scheduling motions (ECF Nos. 13, 15, and 17) on an expedited basis, with a decision requested by this Friday, June 9, 2023. The parties are filing this renewed request out of an abundance of caution, given the fact that several of the deadlines in Judge Cummings's original scheduling order (ECF No. 12) are impending and that the case was only recently reassigned to the Court.

This case involves a challenge by a former Air Force Captain, who seeks to publish several manuscripts relating to his employment, to the pre-publication review process administered by Defendant. *See* Complaint, ECF No. 1. The parties have sought to stay or amend various deadlines in the scheduling order previously entered by Judge Cummings in this matter. Specifically,

- Plaintiff has filed a **Motion for Status Conference**, which Defendants do not oppose if the Court would find it helpful. *See* ECF No. 13.
- Plaintiff has also filed a **Motion to Stay Future Deadlines**, in which he asks the Court to stay the deadlines in the original scheduling order for motions for summary judgment, the completion of mediation, the completion of discovery, motions in limine, and trial, pending the resolution of his Motion for Status Conference and a forthcoming motion

to compel Defendant to provide his counsel with access to classified information. *See* ECF No. 15.

- Defendant has filed a **Cross-Motion to Amend Scheduling Order**, which asks the Court to stay all discovery, mediation, and other deadlines, including any deadline to respond to Plaintiff's forthcoming motion to compel, pending the resolution of Defendant's forthcoming motion for summary judgment. Defendant has also asked the Court to extend the deadline for motions for summary judgment to August 11, 2023. *See* ECF No. 17.

The core dispute between the parties is whether to proceed, as Plaintiff requests, by first resolving whether Plaintiff's counsel is entitled to access classified information or, as Defendant requests, by first determining whether the case can be resolved by summary judgment filings and an *ex parte, in camera* affidavit explaining the basis for the government's redactions to Plaintiff's manuscripts, before considering whether to order Defendant to provide Plaintiff's counsel with access to classified information and whether to permit discovery. Both parties agree, however, that the current deadlines for motions for summary judgment, the completion of mediation, the completion of discovery, motions in limine, and trial, should either be stayed or extended.

However, several of those deadlines are impending, including the deadlines for motions for summary judgment and the completion of mediation, which currently fall on June 15. ECF No. 12 at 1. The parties previously requested a decision on their scheduling motions by June 5. Given that the case was recently reassigned to the Court, and to provide clarity on the governing schedule for further proceedings, the parties renew their request and ask for a decision on these motions by June 9. For ease of reference, the parties' proposed orders are attached.

Dated: June 7, 2023

/s/ Kelly B. McClanahan
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Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I hereby certify that on June 7, 2023, I conferred by email with counsel for Plaintiff concerning the relief requested in this filing. Counsel for Plaintiff indicated that Plaintiff joined in the request for expedited consideration.

/s/ John T. Lewis
John T. Lewis

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2023, a copy of the foregoing was filed electronically via the Court's ECF system, which effects service upon counsel of record.

/s/ John T. Lewis
John T. Lewis